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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35747]

Norfolk Southern Railway Company—Lease Exemption—BNSF Railway Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption; request for comments.

SUMMARY: On June 26, 2013, Norfolk Southern Railway Company (NSR) filed a petition under 49 U.S.C. § 10502 and 49 C.F.R. Part 1121 for exemption from the provisions of 49 U.S.C. § 11323(a)(2) to lease from BNSF Railway Company (BNSF), and upgrade and maintain, approximately 797 feet of rail line, known as the Lumber Lead, including certain underlying and adjacent land and improvements, in Chicago, Ill. (the Line), pursuant to an agreement (the Agreement) with BNSF.

DATES: Written comments must be filed with the Board by July 10, 2013.¹

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's website, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. FD 35747, 395 E Street, S.W., Washington, DC 20423-0001. In addition, send one copy of any comments to: Maquiling B. Parkerson, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

¹ NSR has requested expedited handling, asserting that the proposed lease and upgrade of the Line and the other related improvements (see infra note 2 and related text) are scheduled to start during the Summer and early Fall of 2013. NSR states that it must be able to consummate the lease by July 15, 2013, to ensure that it can commence work on the Line timely in connection with the other related improvements. The Board will attempt to accommodate the request for expedition, and, accordingly, is providing an abbreviated comment period.

FOR FURTHER INFORMATION CONTACT: Marc Lerner at 202-245-0390. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On June 26, 2013, NSR filed a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 11323(a)(2) to lease the Line from BNSF pursuant to the Agreement. Under the Agreement, NSR will lease, upgrade, and maintain the Line and its connection to NSR's No. 3 CJ main line as part of its undertakings that in turn are part of the Chicago Region Environmental and Transportation Efficiency (CREATE) Program.² NSR will replace the Line's hand-thrown turnouts with power turnouts. The new turnouts will be controlled by NSR through a new remote controlled interlocker with BNSF supervisory control on BNSF-owned track. The CREATE project, according to NSR, is intended to result in more fluid and efficient train operations over the numerous connections between major freight yards and main line tracks in the Chicago area, reducing congestion and delays and adding critical capacity to local rail freight infrastructure. NSR states that the Agreement is for an initial five-year term and that it contains no provisions that would limit its ability to interchange with third-party rail carriers as a result of entering into the proposed transaction. NSR also asserts that the proposed transaction meets the statutory requirements of § 10502 and therefore warrants an individual exemption.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). NSR has requested that a final decision be issued and effective by July 15, 2013. The Board will attempt to accommodate that request, subject to the consideration of any comments that may be filed.

Decided: June 28, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² The CREATE program is a public-private partnership between the Chicago Department of Transportation, the Illinois Department of Transportation, and the American Association of Railroads, including Metra and the freight railroads operating in Chicago, to increase efficiency of the region's rail infrastructure, and to enhance the quality of life for Chicago area residents.